

Combat Team, from the Volunteer State of Tennessee. I want to tell you, sir, that we appreciate you coming with us today for this interview and hearing us express our confidence in the Iraqi security forces' role in the upcoming referendum. Sir, we are prepared to do whatever it takes to make this thing a success. But the important thing here is that the Iraqi army and the Iraqi security forces, they're ready, and they're committed. They're going to make this thing happen.

Back in January, when we were preparing for that election, we had to lead the way. We set up the coordination. We made the plan. We're really happy to see, during the preparation for this one, sir, they're doing everything. They're making the plans. They're calling each other. They've got it laid out. So on Saturday, sir, we're going to be beside them. We're going to be there to support them through anything. But we can't wait to share in their success with them on Sunday.

Sir, from all of us here at Task Force Liberty here in Tikrit, we want to express our gratitude to you for spending a little time with us this morning, and thank you, sir, for hearing our assessment of the current situation here in Tikrit, Iraq.

The President. Well, Lieutenant, thanks. It's been my honor. And you know, I wish I could be there to see you face to face, to thank you personally. It's probably a little early for me to go to Tikrit, but one of these days perhaps the situation will be such that I'll be able to get back to Iraq to not only thank our troops but to thank those brave Iraqis who are standing strong in the face of these foreign fighters and these radicals that are trying to stop the march of freedom.

Again, I want to thank you all for being so courageous and for stepping up when the United States of America needed you. I repeat what I said earlier: Please give your loved ones my deepest respect. And you've got to know, the American people are standing strong with you. We're proud of you. May God bless you all in your work, and when you get back to the States, you know, if I'm hanging around, come by and say hello. *[Laughter]*

Thank you all.

NOTE: The teleconference began at 9:54 a.m. The President spoke from Room 350 of the Dwight

D. Eisenhower Executive Office Building to troops in Tikrit, Iraq. In his remarks, he referred to former President Saddam Hussein of Iraq. Participating in the teleconference were Capt. Brent Kennedy, USA, Capt. David J. Smith, USA, Capt. Stephen N. Pratt, USA, Capt. David Williams, USA, M. Sgt. Corine Lombardo, USA, 1st Lt. Gregg A. Murphy, USA, S. Sgt. David Smith-Barry, USA, Sfc. Jerry R. Munoz, USA, Sgt. Dustin Giesbrecht, USA, and Sgt. Ronald E. Long, Jr., USA, 42d Infantry Division; and Sgt. Maj. Akeel Shaker Nassir, 4th Iraqi Army Division.

Remarks After Signing the Book of Condolences at the Embassy of Pakistan

October 14, 2005

Mr. Ambassador, thank you for having us. I'm here to express the condolences of the American people to those who suffered mightily as a result of the earthquake that struck your country. There's been a lot of loss of life, and Americans pray for those families who have lost a loved one.

There's been a lot of damage, and we want to help in any way we can. I told the Ambassador that—reminded him what I told President Musharraf—I said when I spoke to him, I said, "Pakistan is a friend, and America will help." We've moved a lot of military equipment in there. We're helping with humanitarian aid as well. And so not only will we offer our prayers, but we'll offer our help and help the people and help the Government, help this great nation get back on its feet.

Thank you for having us.

NOTE: The President spoke at 10:46 a.m. In his remarks, he referred to Jehangir Karamat, Pakistan's Ambassador to the United States; and President Pervez Musharraf of Pakistan.

Executive Order 13387—2005 Amendments to the Manual for Courts-Martial, United States

October 14, 2005

By the authority vested in me as President by the Constitution and the laws of the United States of America, including chapter

47 of title 10, United States Code (Uniform Code of Military Justice, 10 U.S.C. 801–946), and in order to prescribe amendments to the Manual for Courts-Martial, United States, prescribed by Executive Order 12473, as amended, it is hereby ordered as follows:

Section 1. Part II of the Manual for Courts-Martial, United States, is amended as follows:

(a) R.C.M. 103(2) is amended by replacing the word “without” with the word “with” and by replacing the word “noncapital” with the word “capital”.

(b) R.C.M. 201(e)(2)(B) is amended by adding the word “general” between the words “convene” and “courts-martial” and by inserting the following words after “armed forces”:

“assigned or attached to a combatant command or joint command”.

(c) R.C.M. 201(e)(2)(C) is amended by inserting the words “assigned or attached to a joint command or joint task force,” immediately before the words “under regulations which the superior command may prescribe”.

(d) R.C.M. 201(e)(3) is amended by inserting the following immediately after the words “armed force”:

“, using the implementing regulations and procedures prescribed by the Secretary concerned of the military service of the accused,”.

(e) R.C.M. 201(e)(4) is amended by adding the words “, member, or counsel” after the words “military judge”.

(f) R.C.M. 201(f)(1)(A)(iii)(b) is amended to read as follows:

“(b) The case has not been referred with a special instruction that the case is to be tried as capital.”

(g) R.C.M. 307(c)(4) is amended by inserting the following at the end thereof:

“What is substantially one transaction should not be made the basis for an unreasonable multiplication of charges against one person.”

(h) R.C.M. 501(a)(1) is amended to read as follows:

“(1) General courts-martial.

(A) Except in capital cases, general courts-martial shall consist of a military judge and not less than five members, or of the military

judge alone if requested and approved under R.C.M. 903.

(B) In all capital cases, general courts-martial shall consist of a military judge and no fewer than 12 members, unless 12 members are not reasonably available because of physical conditions or military exigencies. If 12 members are not reasonably available, the convening authority shall detail the next lesser number of reasonably available members under 12, but in no event fewer than five. In such a case, the convening authority shall state in the convening order the reasons why 12 members are not reasonably available.”

(i) R.C.M. 503(a)(3) is amended by deleting “court-martial” and inserting “courts-martial” in lieu thereof.

(j) R.C.M. 503(b)(3) is amended by inserting the words “, a combatant command or joint command” after the words “A military judge from one armed force may be detailed to a court-martial convened in a different armed force”.

(k) R.C.M. 503(c)(3) is amended by inserting the words “, a combatant command or joint command” after the words “A person from one armed force may be detailed to serve as counsel in a court-martial in a different armed force”.

(l) R.C.M. 504, (b)(2)(A) is amended by inserting the following at the end thereof:

“A subordinate joint command or joint task force is ordinarily considered to be “separate or detached.””

(m) R.C.M. 504, (b)(2)(B) is amended by deleting the word “or” at the end of the first element thereof, by deleting the period and adding “; or” at the end of the second element thereof, and by inserting the following as a third element:

“(iii) In a combatant command or joint command, by the officer exercising general court-martial jurisdiction over the command.”

(n) R.C.M. 805(b) is amended by replacing the current second sentence with the following:

“No general court-martial proceeding requiring the presence of members may be conducted unless at least five members are present, or in capital cases, at least 12 members are present except as provided in R.C.M. 501(a)(1)(B), where 12 members are

not reasonably available because of physical conditions or military exigencies. No special court-martial proceeding requiring the presence of members may be conducted unless at least three members are present except as provided in R.C.M. 912(h)."

(o) R.C.M. 912(f)(4) is amended by deleting the fifth sentence and by inserting the following words immediately after the words "When a challenge for cause has been denied" in the fourth sentence:

"the successful use of a peremptory challenge by either party, excusing the challenged member from further participation in the court-martial, shall preclude further consideration of the challenge of that excused member upon later review. Further,"

(p) R.C.M. 1003(b)(2) is amended by replacing the word "foreign" with the word "hardship."

(q) R.C.M. 1004(b) is amended by inserting the following after "(1) Notice." and before the word "Before":

"(A) Referral. The convening authority shall indicate that the case is to be tried as a capital case by including a special instruction in the referral block of the charge sheet. Failure to include this special instruction at the time of the referral shall not bar the convening authority from later adding the required special instruction, provided:

(i) that the convening authority has otherwise complied with the notice requirement of subsection (B); and

(ii) that if the accused demonstrates specific prejudice from such failure to include the special instruction, a continuance or a recess is an adequate remedy.

(B) Arraignment."

(r) Insert the following new R.C.M. 1103A after R.C.M. 1103:

"Rule 1103A. Sealed exhibits and proceedings.

(a) *In general.* If the record of trial contains exhibits, proceedings, or other matter ordered sealed by the military judge, the trial counsel shall cause such materials to be sealed so as to prevent indiscriminate viewing or disclosure. Trial counsel shall ensure that such materials are properly marked, including an annotation that the material was sealed by order of the military judge, and inserted at the appropriate place in the original record

of trial. Copies of the record shall contain appropriate annotations that matters were sealed by order of the military judge and have been inserted in the original record of trial. This Rule shall be implemented in a manner consistent with Executive Order 12958, as amended, concerning classified national security information.

(b) *Examination of sealed exhibits and proceedings.* Except as provided in the following subsections to this rule, sealed exhibits may not be examined.

(1) *Examination of sealed matters.* For the purpose of this rule, "examination" includes reading, viewing, photocopying, photographing, disclosing, or manipulating the documents in any way.

(2) *Prior to authentication.* Prior to authentication of the record by the military judge, sealed materials may not be examined in the absence of an order from the military judge based on good cause shown.

(3) *Authentication through action.* After authentication and prior to disposition of the record of trial pursuant to Rule for Courts-Martial 1111, sealed materials may not be examined in the absence of an order from the military judge upon a showing of good cause at a post-trial Article 39a session directed by the Convening Authority.

(4) *Reviewing and appellate authorities.*

(A) Reviewing and appellate authorities may examine sealed matters when those authorities determine that such action is reasonably necessary to a proper fulfillment of their responsibilities under the Uniform Code of Military Justice, the Manual for Courts-Martial, governing directives, instructions, regulations, applicable rules for practice and procedure, or rules of professional responsibility.

(B) Reviewing and appellate authorities shall not, however, disclose sealed matter or information in the absence of:

(i) Prior authorization of the Judge Advocate General in the case of review under Rule for Courts-Martial 1201(b); or

(ii) Prior authorization of the appellate court before which a case is pending review under Rules for Courts-Martial 1203 and 1204.

(C) In those cases in which review is sought or pending before the United States

Supreme Court, authorization to disclose sealed materials or information shall be obtained under that Court's rules of practice and procedure.

(D) The authorizing officials in paragraph (B)(ii) above may place conditions on authorized disclosures in order to minimize the disclosure.

(E) For purposes of this rule, reviewing and appellate authorities are limited to:

(i) Judge advocates reviewing records pursuant to Rule for Courts-Martial 1112;

(ii) Officers and attorneys in the office of the Judge Advocate General reviewing records pursuant to Rule for Courts-Martial 1201(b);

(iii) Appellate government counsel;

(iv) Appellate defense counsel;

(v) Appellate judges of the Courts of Criminal Appeals and their professional staffs;

(vi) The judges of the United States Court of Appeals for the Armed Forces and their professional staffs;

(vii) The Justices of the United States Supreme Court and their professional staffs; and

(viii) Any other court of competent jurisdiction."

(s) R.C.M. 1301(a) is amended by inserting the following after the second sentence:

"Summary courts-martial shall be conducted in accordance with the regulations of the military service to which the accused belongs."

Sec. 2. Part III of the Manual for Courts-Martial, United States, is amended as follows:

Mil. R. Evid. 317(b) is amended by replacing the word "Transportation" with the words "Homeland Security."

Sec. 3. Part IV of the Manual for Courts-Martial, United States, is amended as follows:

(a) Paragraph 14c(2)(a) is amended by inserting the following new subparagraph (ii) and renumbering existing subparagraphs (a)(ii) through (iv) as (a)(iii) through (v):

"(ii) Determination of lawfulness. The lawfulness of an order is a question of law to be determined by the military judge."

(b) Paragraph 16(c)(1)(a) is amended by replacing the word "Transportation" with the words "Homeland Security".

(c) Paragraph 35a is amended to read as follows:

"a. Text.

(a) Any person subject to this chapter who—

(1) operates or physically controls any vehicle, aircraft, or vessel in a reckless or wanton manner or while impaired by a substance described in section 912a(b) of this title (Article 112a(b)), or

(2) operates or is in actual physical control of any vehicle, aircraft, or vessel while drunk or when the alcohol concentration in the person's blood or breath is equal to or exceeds the level prohibited under subsection (b), as shown by chemical analysis, shall be punished as a court-martial may direct.

(b)(1) For purposes of subsection (a), the applicable level of the alcohol concentration in a person's blood or breath is as follows:

(A) In the case of the operation or control of a vehicle, aircraft, or vessel in the United States, the level is the blood alcohol concentration prohibited under the law of the State in which the conduct occurred, except as may be provided under paragraph (b)(2) for conduct on a military installation that is in more than one State, or the prohibited alcohol concentration level specified in paragraph (b)(3).

(B) In the case of the operation or control of a vehicle, aircraft, or vessel outside the United States, the level is the blood alcohol concentration specified in paragraph (b)(3) or such lower level as the Secretary of Defense may by regulation prescribe.

(2) In the case of a military installation that is in more than one State, if those States have different levels for defining their prohibited blood alcohol concentrations under their respective State laws, the Secretary concerned for the installation may select one such level to apply uniformly on that installation.

(3) For purposes of paragraph (b)(1), the level of alcohol concentration prohibited in a person's blood is 0.10 grams or more of alcohol per 100 milliliters of blood and with respect to alcohol concentration in a person's breath is 0.10 grams or more of alcohol per 210 liters of breath, as shown by chemical analysis."

(4) In this subsection, the term "United States" includes the District of Columbia, the

Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa, and the term “State” includes each of those jurisdictions.”

(d) Paragraph 35b(2)(c) is amended to read as follows:

“(c) the alcohol concentration level in the accused’s blood or breath, as shown by chemical analysis, was equal to or exceeded the applicable level provided in paragraph 35a above.”

(e) Paragraph 35f is amended as follows:

“In that _____ (personal jurisdiction data), did (at/on board—required), on or about _____ 20 _____, (in the motor pool area) (near the Officer’s Club) (at the intersection of _____ and _____) (while in the Gulf of Mexico) (while in flight over North America) physically control [a vehicle, to wit: (a truck) (a passenger car) (_____)] [an aircraft, to wit: (an AH-64 helicopter)(an F-14A fighter)(a KC-135 tanker) (_____)] [a vessel, to wit: (the aircraft carrier USS _____) (the Coast Guard Cutter _____)], [while drunk] [while impaired by _____] [while the alcohol concentration in his (blood)(breath) was, as shown by chemical analysis, equal to or exceeded (.10) (_____) grams of alcohol per (100 milliliters of blood) (210 liters of breath), which is the limit under (cite applicable State law) (cite applicable statute or regulation)] [in a (reckless) (wanton) manner by (attempting to pass another vehicle on a sharp curve) (by ordering that the aircraft be flown below the authorized altitude)] [and did thereby cause said (vehicle) (aircraft) (vessel) to (strike and) (injure _____)].”

(f) Paragraph 97 is amended by (1) inserting the following new subparagraph (b)(2) and renumbering the existing subparagraphs (b)(2) and (b)(3) as (b)(3) and (b)(4); (2) adding the words “and patronizing a prostitute” after the word “Prostitution” in subparagraph (e)(1); and (3) inserting the following new subparagraph (f)(2) and renumbering the existing subparagraphs (f)(2) and (f)(3) as (f)(3) and (f)(4):

“(b)(2) *Patronizing a prostitute.*

(a) That the accused had sexual intercourse with another person not the accused’s spouse;

(b) That the accused compelled, induced, enticed, or procured such person to engage in an act of sexual intercourse in exchange for money or other compensation; and

(c) That this act was wrongful; and

(d) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.”

“(f)(2) *Patronizing a prostitute.*

In that _____ (personal jurisdiction data), did, (at/on board—location) (subject-matter jurisdiction data, if required), on or about _____ 20 _____, wrongfully (compel) (induce) (entice) (procure) _____, a person not his/her spouse, to engage in (an act) (acts) of sexual intercourse with the accused in exchange for (money) (_____).”

(g) Paragraph 109 is amended to read as follows:

“109. ARTICLE 134—(Threat or hoax designed or intended to cause panic or public fear)

a. *Text.* See paragraph 60.

b. *Elements.*

(1) *Threat.*

(a) That the accused communicated certain language;

(b) That the information communicated amounted to a threat;

(c) That the harm threatened was to be done by means of an explosive; weapon of mass destruction; biological or chemical agent, substance, or weapon; or hazardous material;

(d) That the communication was wrongful; and

(e) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

(2) *Hoax.*

(a) That the accused communicated or conveyed certain information;

(b) That the information communicated or conveyed concerned an attempt being made or to be made by means of an explosive;

weapon of mass destruction; biological or chemical agent, substance, or weapon; or hazardous material, to unlawfully kill, injure, or intimidate a person or to unlawfully damage or destroy certain property;

(c) That the information communicated or conveyed by the accused was false and that the accused then knew it to be false;

(d) That the communication of the information by the accused was malicious; and

(e) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

c. Explanation.

(1) *Threat.* A “threat” means an expressed present determination or intent to kill, injure, or intimidate a person or to damage or destroy certain property presently or in the future. Proof that the accused actually intended to kill, injure, intimidate, damage, or destroy is not required.

(2) *Explosive.* “Explosive” means gunpowder, powders used for blasting, all forms of high explosives, blasting materials, fuses (other than electrical circuit breakers), detonators, and other detonating agents, smokeless powders, any explosive bomb, grenade, missile, or similar device, and any incendiary bomb or grenade, fire bomb, or similar device, and any other explosive compound, mixture, or similar material.

(3) *Weapon of mass destruction.* A weapon of mass destruction means any device, explosive or otherwise, that is intended, or has the capability, to cause death or serious bodily injury to a significant number of people through the release, dissemination, or impact of: toxic or poisonous chemicals, or their precursors; a disease organism; or radiation or radioactivity.

(4) *Biological agent.* The term “biological agent” means any micro-organism (including bacteria, viruses, fungi, rickettsiac, or protozoa), pathogen, or infectious substance, and any naturally occurring, bioengineered, or synthesized component of any such micro-organism, pathogen, or infectious substance, whatever its origin or method of production, that is capable of causing—

(a) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

(b) deterioration of food, water, equipment, supplies, or materials of any kind; or

(c) deleterious alteration of the environment.

(5) *Chemical agent, substance, or weapon.* A chemical agent, substance, or weapon refers to a toxic chemical and its precursors or a munition or device, specifically designed to cause death or other harm through toxic properties of those chemicals that would be released as a result of the employment of such munition or device, and any equipment specifically designed for use directly in connection with the employment of such munitions or devices.

(6) *Hazardous material.* A substance or material (including explosive, radioactive material, etiologic agent, flammable or combustible liquid or solid, poison, oxidizing or corrosive material, and compressed gas, or mixture thereof) or a group or class of material designated as hazardous by the Secretary of Transportation.

(7) *Malicious.* A communication is “malicious” if the accused believed that the information would probably interfere with the peaceful use of the building, vehicle, aircraft, or other property concerned, or would cause fear or concern to one or more persons.

d. Lesser included offenses.

(1) *Threat*

(a) Article 134—communicating a threat

(b) Article 80—attempts

(c) Article 128—assault

(2) *Hoax.* Article 80—attempts

e. Maximum punishment. Dishonorable discharge, forfeitures of all pay and allowances, and confinement for 10 years.

f. Sample specifications.

(1) *Threat.*

In that _____ (personal jurisdiction data) did, (at/on board—location) on or about _____ 20____, wrongfully communicate certain information, to wit: _____, which language constituted a threat to harm a person or property by means of a(n) [explosive; weapon of mass destruction; biological agent, substance, or weapon; chemical agent, substance, or weapon; and/or (a) hazardous material(s)].

(2) *Hoax.*

In that _____ (personal jurisdiction data) did, (at/on board—location), on or about _____ 20 _____, maliciously (communicate) (convey) certain information concerning an attempt being made or to be made to unlawfully [(kill) (injure) (intimidate) _____] [(damage) (destroy) _____] by means of a(n) [explosive; weapon of mass destruction; biological agent, substance, or weapon; chemical agent, substance, or weapon; and/or (a) hazardous material(s)], to wit: _____, which information was false and which the accused then knew to be false.”

Sec. 4. Part V of the Manual for Courts-Martial, United States, is amended as follows:

(a) Paragraph 1(h) is amended by redesignating existing paragraph 1(h) as 1(i) and inserting the following new paragraph 1(h):

“h. *Applicable standards.* Unless otherwise provided, the service regulations and procedures of the servicemember shall apply.”

(b) Paragraph 2(a) is amended by replacing the words “Unless otherwise” with the word “As”.

(c) Paragraph 2(a) is amended by inserting the following after the second sentence:

“Commander includes a commander of a joint command.”

(d) Paragraph 2(a) is amended by inserting the words “of a commander” in the third sentence after the words “the authority.”

Sec. 5. These amendments shall take effect 30 days from the date of this order.

(a) Nothing in these amendments shall be construed to make punishable any act done or omitted prior to the effective date of this order that was not punishable when done or omitted.

(b) Nothing in these amendments shall be construed to invalidate any nonjudicial punishment proceeding, restraint, investigation, referral of charges, trial in which arraignment occurred, or other action begun prior to the effective date of this order, and any such nonjudicial punishment proceeding, re-

straint, investigation, referral of charges, trial, or other action may proceed in the same manner and with the same effect as if these amendments had not been prescribed.

George W. Bush

The White House,
October 14, 2005.

[Filed with the Office of the Federal Register, 8:45 a.m., October 17, 2005]

NOTE: This Executive order will be published in the *Federal Register* on October 18.

Memorandum on Waiver and Certification of Statutory Provisions Regarding the Palestine Liberation Organization Office

October 14, 2005

Presidential Determination No. 2006–01

Memorandum for the Secretary of State

Subject: Waiver and Certification of Statutory Provisions Regarding the Palestine Liberation Organization (PLO) Office

Pursuant to the authority and conditions contained in section 534(d) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005, Public Law 108–447, as provided for in the Joint Resolution Making Continuing Appropriations for the Fiscal Year 2006 (Public Law 109–77), I hereby determine and certify that it is important to the national security interests of the United States to waive the provisions of section 1003 of the Anti-Terrorism Act of 1987, Public Law 100–204.

This waiver shall be effective for a period of 6 months from the date hereof. You are hereby authorized and directed to transmit this determination to the Congress and to publish it in the *Federal Register*.

George W. Bush